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13 Attorneys for Plaintiff  
United States of America

IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

14 UNITED STATES OF AMERICA,  
15  
16 Plaintiff,

17 v.

18 CITY OF WALNUT, CALIFORNIA;  
19 THE WALNUT CITY COUNCIL; THE  
20 OFFICE OF THE WALNUT CITY  
21 MANAGER; TERESA DE DIOS, in her  
22 official capacity as Walnut City Clerk,

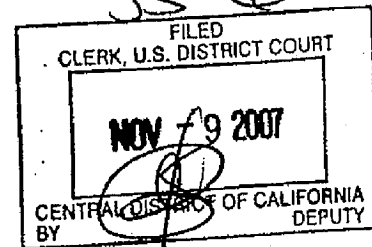
23 Defendants.

NO. CV 07-2437-PA/SJO/MMS  
(VBKx)

**THREE-JUDGE COURT**

**AGREEMENT AND [proposed]  
ORDER**

24  
25 The United States of America filed this action pursuant to Sections 203 and  
26 204 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973aa-1a and



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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

1 1973aa-2, and 28 U.S.C. § 2201 arising from the City of Walnut's election practices  
2 and procedures.

3 In accordance with the provisions of 42 U.S.C. § 1973aa-2 and 28 U.S.C. §  
4 2284, the United States' claim brought under Section 203 of the Voting Rights Act  
5 of 1965, as amended ("Section 203"), must be heard and determined by a court of  
6 three judges.

7 According to the 2000 Census, the City of Walnut had a total population of  
8 30,004, of whom 8,853 (29.5%) were Chinese and 1,916 (6.4%) were Korean. The  
9 Census reported that the City had a total voting age population of 21,723, of whom  
10 6,212 (28.6%) were Chinese and 1,369 (6.3%) were Korean. Of the Chinese voting  
11 age residents, 4,056 (65.3%) were limited-English proficient, and of the Korean  
12 voting age residents, 853 (62.3%) were limited-English proficient. The Census also  
13 reported that the total citizen voting age population of Walnut was 16,922, of whom  
14 3,707 (21.9%) were Chinese and 916 (5.4%) were Korean.

15 The Census Bureau has designated the County of Los Angeles as subject to  
16 the requirements of Section 203 of the Voting Rights Act for Chinese, Filipino,  
17 Japanese, Korean, Spanish, and Vietnamese. See 42 U.S.C. § 1973aa-1a(b)(2); see  
18 also 67 Fed. Reg. 48,871 (July 26, 2002). As a political subdivision within the  
19 County of Los Angeles, the City of Walnut agrees that it is also subject to the  
20 requirements of Section 203 for these languages. See 28 C.F.R. § 55.9. As a  
21 political subdivision of Los Angeles County, the City of Walnut agrees that it has  
22 been continuously subject to Section 203's requirements to provide election  
23 materials and information in Chinese since September 18, 1992 and in Korean since  
24 July 26, 2002. See 57 Fed. Reg. 43,213 (Sept. 18, 1992); 67 Fed. Reg. 48,871 (July  
25 26, 2002). The parties agree that there are Chinese-speaking citizens with limited  
26 English proficiency ("Chinese-speaking citizens") who may need assistance in the

1 election process in the Chinese language and who reside in the City of Walnut.  
2 Similarly, the parties agree that there are Korean-speaking citizens with limited  
3 English proficiency ("Korean-speaking citizens") who may need assistance in the  
4 election process in the Korean language and who reside in the City of Walnut.

5 The City of Walnut conducts its own municipal elections, while the County  
6 of Los Angeles conducts county, state, and federal elections in which voters in the  
7 City also vote. The allegations in the Complaint and the terms of this Agreement  
8 and Order (hereinafter, "Agreement") apply to the City's municipal elections, and  
9 any other elections which the City has authority to conduct.

10 The Complaint alleges that Defendants (hereinafter, "City of Walnut" or  
11 "City") have not complied with the requirements of Section 203 by failing to  
12 translate written election materials and information into Chinese and Korean,  
13 including, but not limited to, information about voter registration, polling place  
14 locations, dates of elections, and other election related information; by failing to  
15 provide effective assistance in Chinese and Korean to limited-English proficient  
16 voters; and by failing to provide certain election related information, including but  
17 not limited to information publicizing elections and voter registration information,  
18 in a manner that provides limited-English proficient Chinese and Korean citizens an  
19 equal and effective opportunity to be informed about election related activities. The  
20 City contends that it has complied fully with applicable laws.

21 In the interest of securing the rights of voters, the parties have agreed that this  
22 lawsuit – and the Counterclaim that the City of Walnut filed against the United  
23 States – should be resolved through the terms of this Agreement. Accordingly, the  
24 United States and the City of Walnut hereby consent to the entry of this Agreement,  
25 as indicated by the signatures of counsel at the end of this document. The parties  
26

1 waive a hearing and entry of findings of fact and conclusions of law on all issues  
2 involved in this matter.

3 The City of Walnut is committed to complying fully with the requirements of  
4 Section 203 in future elections and stipulates that each provision of this Agreement  
5 is appropriate in securing the rights of voters.

6  
7 Accordingly, it is hereby **AGREED AND ORDERED** that:

8 1. The City of Walnut, its agents, employees, contractors, successors and  
9 all other persons representing the interests of the City shall hereby also provide in  
10 Chinese and Korean any "registration or voting notices, forms, instructions,  
11 assistance or other materials or information relating to the electoral process" that it  
12 provides in English, as required by Section 203 of the Voting Rights Act of 1965,  
13 as amended. 42 U.S.C. § 1973aa-1a(c). The terms of this Agreement apply to all  
14 municipal elections in the City of Walnut and any other elections over which the  
15 City has authority to conduct. Whenever the City of Walnut enters into an election  
16 services contract with another entity – whether it be a political subdivision or some  
17 other public or private entity – to conduct an election on behalf of the City, the City  
18 of Walnut shall require such other entity to agree to abide by the terms of this  
19 Agreement as if such entity were a party to this Agreement with the United States.

20 **Translation of Election Related Materials**

21 2. All information that is disseminated by the City of Walnut in English  
22 regarding "registration or voting notices, forms, instructions, assistance, or other  
23 materials or information relating to the electoral process, including ballots," 42  
24 U.S.C. § 1973aa-1a(c), shall also be provided in at least Chinese and Korean. The  
25 City of Walnut shall ensure that English, Chinese and Korean language election  
26

1 information, materials, and announcements provided by the City of Walnut are made  
2 equally available to voters, along with any other required languages.

3 3. The City shall consult with trained translators who are familiar with  
4 Chinese and Korean language election terminology to produce clear and accurate  
5 written translations of English language election information. The City shall consult  
6 in a timely manner with the Advisory Groups, discussed below, regarding the  
7 translation of any written and audio-recorded materials. The City shall also develop  
8 and maintain a glossary of Chinese and Korean election terminology. The City may  
9 satisfy this obligation by using terminology provided by the Los Angeles County  
10 Registrar-Recorder/County Clerk or the Elections Division of the office of the  
11 Secretary of State of California.

12 4. The City shall translate the names of each of the candidates running for  
13 office into Chinese and Korean on the official ballot, the sample ballot, and any  
14 other election material that the City provides that contains such names in English.  
15 The City shall consult with the Advisory Groups, discussed below, when creating  
16 such translations.

17 5. The City shall adopt a checklist identifying each written item that is  
18 provided in at least Chinese and Korean and that the City makes available to the  
19 public at each precinct. The checklist shall include with respect to each item an  
20 attestation that the poll workers at the precinct posted or made available to voters  
21 these materials in Chinese and Korean, or a detailed written explanation of why  
22 individual items had not been posted or were not available. The inspector for each  
23 precinct must complete and sign this document before he/she receives payment for  
24 work in the election, subject to applicable state and federal law. The City shall  
25 maintain a record of any such failure to complete and sign the checklist.  
26

**Dissemination of Minority Language Information**

6. The City shall ensure that all Chinese, Korean and English language election related information, materials, and announcements issued by the City are made equally available. Chinese and Korean language information shall be distributed through newspapers, radio and/or other media that exclusively or regularly publish or broadcast information in the relevant minority language to the local population. Dissemination of these minority language announcements shall be in the form, frequency, and media best calculated to achieve notice and understanding equal to that provided to the English-speaking population and to provide substantially the same information.

7. Any voting system used by the City shall be multilingual, as described below. If the City uses electronic voting machines, such machines shall offer the readily apparent option of using at least an English, Korean, and Chinese ballot, and any audio version of the ballot on such machines shall be available at least in English, Korean, and Chinese. Any paper ballots used by the City, including all official ballots, absentee ballots, and provisional ballots, shall be printed in, at least, English, Korean, and Chinese. If it is not mechanically feasible to have at least English, Chinese, and Korean on one ballot, subject to the provisions of the next Paragraph of this Agreement, all paper ballots shall at least be bilingual. With respect to paper ballots, the principal bilingual ballot shall be in English and the predominant minority language in the City (e.g., currently Chinese), and the City shall also provide separate bilingual ballots in each of the other covered minority languages where there is a need among voters in the City (e.g., Korean).

8. If the City elects to have a bilingual ballot in English and the predominant minority language, and separate bilingual ballots in the other covered minority languages, the ballots shall be clearly labeled so that poll workers can know

1 the languages represented on the ballot. The City shall ensure that all ballots are  
2 made visible and available on an equal basis with the principal ballots, and  
3 designated poll workers shall let each voter know the language choices of ballots  
4 available.

5 9. To the extent the City posts instructions on casting a ballot or other  
6 election related information inside the voting booth, the City shall also provide and  
7 post that same information in at least Chinese and Korean.

8 10. Sample ballots and other written election related materials mailed to  
9 voters shall be provided in at least Chinese and Korean to at least those voters who  
10 have requested or may request materials be mailed to them in the relevant minority  
11 language. The translated materials mailed to voters must include all of the  
12 information provided in the English language materials, and the minority language  
13 materials must be mailed out at the same time as the English language materials.

14 11. Nothing in this Agreement prevents the City from adopting a  
15 multilingual sample ballot booklet that provides all information in the City's covered  
16 languages.

17 **Minority Language Assistance**

18 12. The City shall provide, during normal business hours, trained bilingual  
19 personnel who speak Chinese and Korean for citizens who contact the City by  
20 telephone three weeks before, during, and three weeks after an election with  
21 questions regarding the election process. The City may coordinate the provision of  
22 such services with other governmental or non-governmental entities that conduct  
23 elections.

24 13. The City shall recruit, hire, and assign bilingual poll workers, who are  
25 able to understand, speak, read, and write Chinese and English fluently and Korean  
26

1 and English fluently, to provide assistance to limited-English proficient Chinese-  
2 speaking and Korean-speaking voters at the polls on election days.

3 14. In determining the threshold for assigning bilingual poll workers in  
4 Walnut's municipal elections, the following factors are relevant: the historically  
5 lower voter turn-out rate for municipal elections in Walnut as compared to County-  
6 wide elections, the need for Walnut to serve multiple minority language groups, the  
7 extent to which Asian surname analyses of registered voters (using the Lauderdale  
8 and Kestenbaum lists of Asian surnames) undercount the true number of voters in  
9 a particular community, and the higher number of Chinese-surnamed registered  
10 voters than Korean-surnamed registered voters in Walnut. In light of these factors,  
11 the City and any entity conducting elections on its behalf, in addition to satisfying  
12 all requirements of California state law and the recommended guidelines provided  
13 by the Los Angeles County Registrar-Recorder/County Clerk, shall meet the  
14 following standards for assigning bilingual workers in Walnut's municipal elections:

- 15 A. The City shall provide at least one Chinese-speaking poll worker  
16 for each consolidated precinct that has 35 to 249 Chinese-  
17 surnamed voters; and  
18 B. The City shall provide at least two Chinese-speaking poll  
19 workers for each consolidated precinct that has 250 or more  
20 Chinese-surnamed voters.  
21 C. The City shall provide at least one Korean-speaking poll worker  
22 for each consolidated precinct that has 35 or more Korean-  
23 surnamed voters.  
24 D. The parties may by written agreement adjust this requirement in  
25 light of confirmed information that the actual language need in  
26 a particular precinct is less or greater than this standard.

1           E. The Chinese-speaking poll workers shall speak the relevant  
2           dialect for their assigned precinct, to be determined in  
3           consultation with the Advisory Group (discussed below). In  
4           addition, after each election, the City shall require each Chinese-  
5           speaking poll worker to fill out a survey indicating which  
6           Chinese dialects were most commonly spoken by Chinese-  
7           speaking voters at the precinct where he/she worked. The City  
8           shall use the information from such surveys to help determine  
9           which dialect future Chinese-speaking poll workers assigned to  
10          the precinct should speak.

11          15. To avoid last-minute gaps in Chinese and Korean language coverage  
12          at the polls on election day due to bilingual poll workers who fail to report to the  
13          polling place, the City shall employ bilingual personnel trained in Chinese and  
14          Korean election terminology who shall be on call and available to travel to a polling  
15          place not staffed by a bilingual poll worker to provide any necessary assistance to  
16          a limited-English proficient Chinese-speaking or Korean-speaking voter.

17          16. The City shall post signs prominently in English, Chinese, and Korean  
18          stating that minority language assistance is available. Bilingual personnel shall be  
19          identified as such by wearing bilingual badges.

20          **Assistance in Other Minority Languages**

21          17. As a political unit within the County of Los Angeles, the City contends  
22          that it has adequately provided election materials in English, Spanish, and Tagalog.  
23          In order to ensure future compliance with Section 203, the City shall develop plans  
24          to provide election materials and assistance to such other language groups as the  
25          need for such language assistance arises. Any language assistance and materials  
26          provided

1 to these additional minority language groups shall be provided in a manner that is  
2 consistent with the requirements of this Agreement.

3 **Poll Worker Training**

4 18. Prior to each election, the City shall train all poll workers and other  
5 election personnel present at the polls on the following topics: (1) the provisions of  
6 Section 203, including the legal obligation to make language assistance and  
7 materials available to minority language voters and to be respectful and courteous  
8 to all voters regardless of race, color, language abilities, or national origin; and (2)  
9 the requirements of Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6,  
10 regarding the rights of limited-English proficient voters to the assistor of their  
11 choice. The City shall also train Chinese-speaking and Korean-speaking poll  
12 workers on election terminology in the relevant minority language and how to  
13 interpret the ballot, voting instructions, and other election related information. The  
14 City shall maintain a record of which poll workers attend training sessions, including  
15 the time, location, and training personnel involved.

16 **Response to Complaints about Poll Workers**

17 19. Upon receipt of complaints, whether oral or written, the City shall  
18 investigate expeditiously any allegations of poll worker hostility toward minority  
19 language voters or poll workers in any election. The City shall report the results of  
20 each investigation to the United States in writing within thirty days of receiving the  
21 complaint. Where there is credible evidence that a poll worker has engaged in  
22 inappropriate treatment of minority language voters or poll workers, the City shall  
23 remove the poll worker.

24 **Program Coordinator**

25 20. The City shall retain or designate a Program Coordinator to coordinate  
26 the City's Chinese language election program and a Program Coordinator to

1 coordinate the City's Korean language election program. The Program  
2 Coordinator(s) shall be able to understand, speak, write, and read fluently both in  
3 English and in the language of the minority language group for which he/she is  
4 coordinating election related assistance and materials. The City may retain or  
5 designate one Program Coordinator for both the Chinese language election program  
6 and the Korean language election program provided that such person can  
7 understand, speak, write, and read fluently in English, Chinese, and Korean. For  
8 Chinese, the Program Coordinator shall be able to speak the appropriate dialect(s).

9 21. The Program Coordinator(s) shall work under the supervision of the  
10 City Clerk and their responsibilities shall include coordinating and reviewing the  
11 translation of ballots and other election information; developing and overseeing  
12 publicity in the minority language, including selecting appropriate minority language  
13 media for notices and announcements; recruiting bilingual poll workers; and  
14 assessing the language proficiency of poll workers.

#### 15 **Advisory Groups**

16 22. The City shall form a Korean Language Advisory Group and a Chinese  
17 Language Advisory Group to provide the City with information and assistance  
18 regarding how best to provide election related materials and assistance to the  
19 Chinese-speaking and Korean-speaking communities. The Advisory Groups shall  
20 be established and chaired by the Program Coordinator who is assigned to the same  
21 minority language group. The Program Coordinator(s) shall invite participation  
22 from interested individuals and organizations who work with or serve the relevant  
23 minority language community to determine how most effectively to provide election  
24 materials, information, and assistance to minority language voters. The Program  
25 Coordinator(s) shall provide notice of all planned meetings to each member,  
26 including the date, time, location, and meeting agenda at least 14 days in advance,

1 although members of the Advisory Groups may agree to waive or shorten this time  
2 period as necessary. The Groups shall meet at least once per month beginning six  
3 months before every election and continuing until one month after the election.

4 23. Within five days after each meeting, the Program Coordinator(s) shall  
5 provide a written summary of the discussion and any decisions reached at the  
6 meeting to all Advisory Group members and to the City Clerk. If the City Clerk  
7 decides not to implement an Advisory Group's suggestion or a consensus cannot be  
8 reached respecting such suggestion, the City Clerk shall provide to the Advisory  
9 Group through the Program Coordinator, and maintain on file, a written statement  
10 of the reasons for rejecting such suggestion.

11 24. The City Clerk shall transmit to all interested members of the Advisory  
12 Group copies, in English and the relevant minority language, of all election  
13 information, announcements, and notices that are provided or made available to the  
14 electorate and general public and request that they share such information with  
15 others.

#### 16 **Evaluation of the Program**

17 25. The parties recognize that regular and ongoing reassessment may be  
18 necessary in order to provide the most effective and efficient minority language  
19 program. The City Clerk and the City Manager shall evaluate the minority language  
20 election program after each election cycle to determine which aspects of the program  
21 are functioning well, whether any aspects need improvement, and how to make any  
22 needed improvements. The program may be adjusted at any time upon written  
23 agreement of the parties.

#### 24 **Federal Observers**

25 26. The appointment of federal observers is authorized for the City of  
26 Walnut, and the City agrees that, pursuant to Section 3(a) of the Voting Rights Act,

1 42 U.S.C. § 1973a(a), federal observers shall be permitted to observe all aspects of  
2 voting conducted in the polls on election day, including the authority to view City  
3 poll workers providing assistance to voters during voting, except where the voter  
4 objects. In the event of full compliance with this Agreement for any election, the  
5 United States may reduce or adjust the assignment of federal observers, as  
6 appropriate.

7 **Retention of Documents and Reporting Requirements**

8 27. Throughout the duration of this Agreement, the City shall make and  
9 maintain written records of all actions taken pursuant to this Agreement. Such  
10 documents, lists, and records shall be made available, upon reasonable notice, to the  
11 United States for inspection and copying.

12 28. Throughout the duration of this Agreement, at least twenty-one (21)  
13 days before each City-administered election, the City Clerk shall provide to the  
14 United States, via facsimile or e-mail, the following information: (a) the name,  
15 address, and precinct designation of each polling place; (b) the name and title of  
16 each poll worker appointed and assigned to serve at each precinct; (c) a designation  
17 of whether each poll worker is fluent in English and a foreign language, and an  
18 indication of what foreign languages are spoken by each poll worker; and (d) copies  
19 of any signs or other written information provided at polling places. Within thirty  
20 (30) days after each such election, the City of Walnut shall provide to counsel for  
21 the United States a report that includes any changes in these items as well as  
22 information about all complaints the City received at the election regarding language  
23 or assistance issues.

24 //

25 //

26 //

1 **Miscellaneous Provisions**

2 29. The Court shall retain jurisdiction of this case to enter further relief or  
3 such other orders as may be necessary for the effectuation of the terms of this  
4 agreement and to ensure compliance with Section 203.

5 30. This Agreement is final and binding between the parties and their  
6 successors in office regarding the claims raised in this action and the claims raised  
7 in the City's Counterclaim. This Agreement shall remain in effect through  
8 December 31, 2010.  
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1 AGREED AND CONSENTED TO:

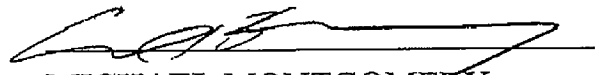
2 Dated: SEPTEMBER 20, 2007.

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4 FOR PLAINTIFF:

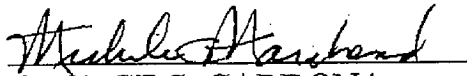
FOR DEFENDANTS:

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7 RENA J. COMISAC  
8 Acting Assistant Attorney General



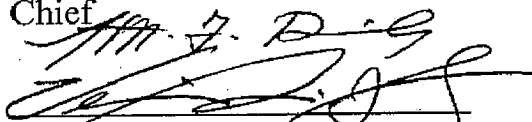
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39 alberto.ruisanchez@usdoj.gov

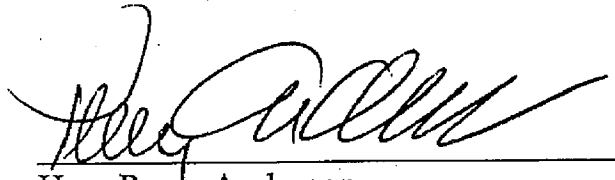
**ORDER**

This three-judge Court, having been properly empaneled under 28 U.S.C. § 2284 and 42 U.S.C. § 1973aa-2 to consider the United States' claim under Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a, and Defendants' Counterclaim under the Act, and having determined that it has jurisdiction over these claims, has considered the terms of the Agreement and [proposed] Order, and hereby enters and incorporates herein the relief set forth above in this Order.

Dated: \_\_\_\_\_

Hon. Mary M. Schroeder  
United States Circuit Judge

Dated: 11/9/07

  
Hon. Percy Anderson  
United States District Judge

Dated: 10/19/07

  
Hon. S. James Otero  
United States District Judge

ORDER

This three-judge Court, having been properly empaneled under 28 U.S.C. § 2284 and 42 U.S.C. § 1973aa-2 to consider the United States' claim under Section 203 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973aa-1a, and Defendants' Counterclaim under the Act, and having determined that it has jurisdiction over these claims, has considered the terms of the Agreement and [proposed] Order, and hereby enters and incorporates herein the relief set forth above in this Order.

Dated: 10-22-07

Mary M. Schroeder  
Hon. Mary M. Schroeder  
United States Circuit Judge

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Percy Anderson  
United States District Judge

Dated: \_\_\_\_\_

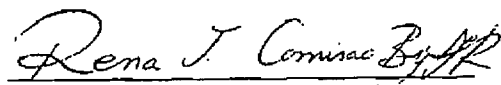
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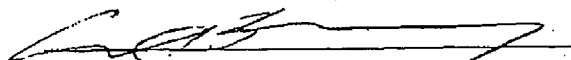
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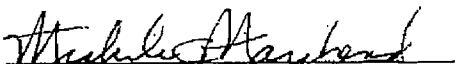
FOR DEFENDANTS:

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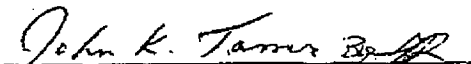
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alberto.ruisanchez@usdoj.gov

PROOF OF SERVICE BY MAIL

I am over the age of 18 and not a party to the within action. I am employed by the Office of the United States Attorney, Central District of California. My business address is 312 North Spring Street, Suite 1400, Los Angeles, California 90012.

On September 20, 2007, I served an AGREEMENT AND [PROPOSED] ORDER on each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices.

TO: Michael Montgomery  
City Attorney, City of Walnut  
2627 Mission Street, Suite 1  
San Merino, CA 91108

X I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

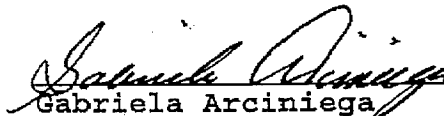
\_\_\_ Via Hand Delivery

\_\_\_ Via Fax

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: September 20, 2007 at Los Angeles, California.

  
Gabriela Arciniega